

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
LITTON INDUSTRIES, INC. }

For Appellant: Joseph L. Brach
Assistant Secretary

Timothy P. Reames

For Respondent: Crawford H. Thomas
Chief Counsel

O P I N I O N

This appeal is made pursuant to section 26030.1 of the Revenue and Taxation code from the action of the Franchise Tax Board in disallowing interest in the amount of \$2,844 on a claim by Litton Industries, Inc., for refund of franchise tax in the amount of \$81,991 for the income year ended July 31, 1965.

The question presented in this appeal is whether the amount refunded to appellant constitutes an "overpayment in respect of any tax" within the meaning of section 26080 of the Revenue and Taxation Code so as to entitle appellant to interest thereon.

The due date for filing appellant's franchise tax return and paying its tax for the income year ended July 31, 1965, was October 17, 1965. Appellant requested and was granted an extension to April 15, 1966, for the filing of its franchise tax return. However, the due date for payment of its tax remained October 17, 1965, since there is no provision in the law for extending this date. Accordingly, appellant in good faith estimated its tax at \$405,000 and sent this payment to respondent on October 16, 1965. The return filed on April 15, 1966, reported the actual tax to be \$323,009 and claimed an overpayment in the amount of \$81,991. The latter amount was refunded by respondent on June 13, 1966, 'Out no interest was allowed on the overpayment'.

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Appellant urges that its remittance on October 16, 1965, constituted a bona fide and orderly discharge of a liability reasonably assumed to be imposed by law and that interest is therefore allowable on the overpayment.

The question presented here is the same as that decided this day in the Appeals of MCA Inc. and MCA Artists, Ltd. We do not find any material difference between the facts in the two cases. Accordingly, we conclude that Litton Industries, Inc., is entitled to interest under section 26080 of the Revenue and Taxation Code on its \$81,991 overpayment.

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 26080.1 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in disallowing interest in the amount of \$2,844 on the claim by Litton Industries, Inc., for refund of franchise tax in the amount of \$81,991 for the income year ended July 31, 1965, be and the same is hereby reversed.

Done at Sacramento, California, this 7th day of March, 1967, by the State Board of Equalization.

Paul R. Leach, Chairman
John W. Lynch, Member
Richard E. ..., Member
Robert ..., Member
..., Member

Attest:

[Signature], Secretary